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Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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In the Matter of )  
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Reexamination of Comparative Standards ) MM Docket No. 95-31  
for Noncommercial Educational Applicants )  
  
To: The Commission

REPLY COMMENTS OF THE EXECUTIVE COMMITTEE  
OF THE TRUSTEES OF BOSTON UNIVERSITY  
AND WRNI FOUNDATION

The Executive Committee of the Trustees of Boston University (the "Executive Committee") is the licensee of non-commercial educational ("NCE") broadcast stations WBUR-FM, Boston, Massachusetts and WBUR-AM, West Yarmouth, Massachusetts. WRNI Foundation (the "Foundation") is the licensee of WRNI-AM, Providence, Rhode Island and the pending transferee of WXNI-AM, Westerly, Rhode Island.

The Executive Committee and the Foundation hereby respectfully submit these joint Reply Comments in response to the above-captioned *Further Notice of Proposed Rulemaking*, released by the Commission on October 21, 1998 (the "NPRM").

**Introduction**

The NPRM invited comment on proposed comparative criteria to resolve conflicts in NCE proceedings. The Executive Committee and the Foundation proposed a point system in which points would be awarded to applicants who would truly serve local interests and represent

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local applicants rather than nationwide “networks” of NCE stations and which would award NCE licenses to those applicants demonstrating technical capabilities to serve the public interests. The Executive Committee and the Foundation oppose any lottery system or point system awarding diversity or minority representation credits as unworkable and potentially unconstitutional.

Other reply comments summarize the comments filed in this proceeding; we will not do so here. Suffice it to say that the comments filed display the range of difficulties which this issue presents. We appreciate the task facing the Commission. No system of comparative criteria will satisfy the entire range of diverse interests representing the present state of noncommercial broadcasting.

#### **Majority of Commenters Favor a Point System**

The majority of commenters propose adoption of a point system. We are in agreement with this conclusion. Unfortunately, there is no consensus on particular criterion or the number of points that should be awarded. In fact, the point systems advocated vary widely in scope and complexity. Despite these differences, the vast majority of commenters propose a point system in which points are awarded to encourage localism. This concept is critical to the continuation of true public broadcasting as conceived by Congress when it first reserved the spectrum for such a service. In making determinations of the quality of local service proposed, the Commission should take into account the impact of the proposed service on the community without regard as to whether an applicant is a “local organization.” The Commission should not award points to an entity simply because its base of operations is located within the principal contour of the community of license. Each applicant should be required to define its goals and demonstrate that it can effectively serve the community’s listeners, regardless of where its corporate headquarters may be.

### **Limit Applications**

Another widely-held position urges the Commission to curb mass filings of applications under the current cut-off procedures. We are also in agreement with this position. The present cut-off procedures encourage blanket filing of applications. Commenters urge the Commission to adopt filing windows, holding periods for construction permits and annual certifications. We also urge the Commission to adopt a strict limit on the number of applications that any applicant may file during a given filing window as well as the adoption of documentation requirements to ensure that only *bona fide* non-profit organizations are applying for noncommercial spectrum. The present rules only require a statement to be filed by the applicant; competing applicants have no way to verify the background of other applicants short of an expensive records search.


### **Conclusion**

Adoption of workable criteria to resolve conflicts in NCE proceedings going forward is long overdue. There are many mutually exclusive applicants who have been waiting many years for the freeze to be lifted. These applicants have spent time and money maintaining their applications as required by Commission rules and should not be prejudiced by the imposition of new criteria and an “open season” on filing of new applications. .

We respectfully urge the Commission to recognize the vested interests of those applicants who have previously been cut-off and have mutually exclusive applications pending when considering the comments filed in response to the NPRM and in establishing a workable point system for resolving future conflicts.

Respectfully submitted,

THE EXECUTIVE COMMITTEE OF  
THE TRUSTEES OF BOSTON UNIVERSITY  
AND WRNI FOUNDATION

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